

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

JOHN BENTON CROSS, JR.,

Plaintiff,

v.

CIVIL ACTION NO. 2:16-cv-03654

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Plaintiff's Complaint seeking judicial review of the decision of then Acting Commissioner of Social Security, Carolyn W. Colvin ("Commissioner").¹ (ECF No. 2.) On April 15, 2016, this action was referred to United States Magistrate Judge Omar J. Aboulhosen for submission of proposed findings and a recommendation ("PF&R"). (ECF No. 4.) Magistrate Judge Aboulhosen filed his PF&R on October 31, 2016, recommending that this Court grant Plaintiff's motion for judgment on the pleadings, reverse the final decision of the Commissioner, and remand this matter pursuant to sentence four of 42 U.S.C. § 405(g). (ECF No. 18.)

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation

¹ Nancy A. Berryhill became the Acting Commissioner of Social Security on January 23, 2017, replacing the former Social Security Commissioner, Carolyn W. Colvin. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Commissioner Berryhill is automatically substituted as the Defendant.

to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R in this case were due on November 17, 2016. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 18), **GRANTS** Plaintiff's motion for judgment on the pleadings, (ECF No. 11), **REVERSES** the final decision of the Commissioner, **REMANDS** this matter pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings, and **DISMISSES** this action from the Court's docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: April 25, 2017



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE